

ZB# 95-60

**Rosenbaum Industries /
Stern**

65-2-16.1

Reelin,

#95-60 - Rosenbaum Industries/Stern
area

Nov. 27, 1995.

Need copy of:

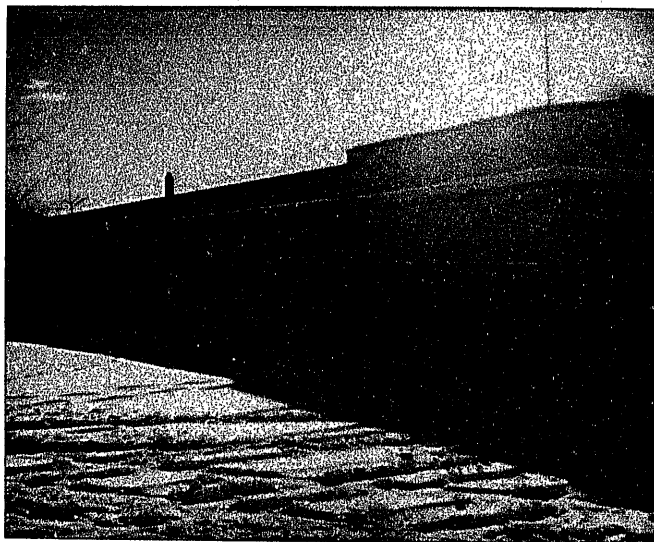
- 1 Need ~~Copy~~ ✓
- 2 Title Report
- 3 Fees - (1) 150.00 ✓
(2) 500.00 ✓
- 4 Photos ✓
- 5 ~~811 Fee~~

Motion to Scheml.

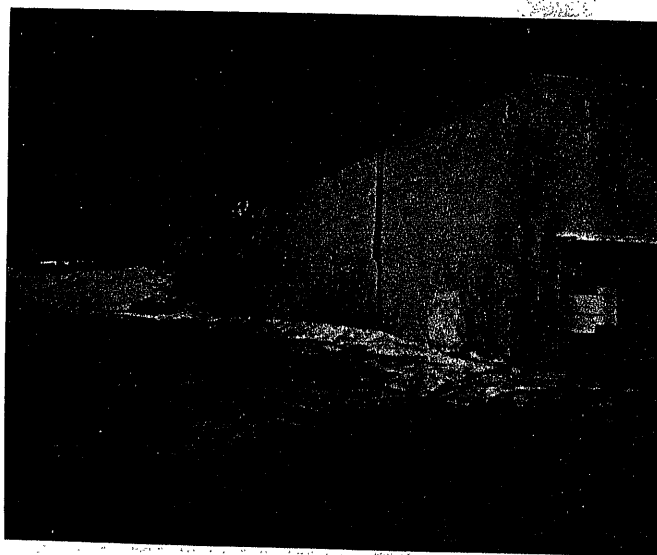
Notice to Sealed 11/28/95.

December 11, 1995.

Refund: \$384.70



NORTH
ELEVATION



SOUTH
ELEVATION



NORTH
ELEVATION



SOUTH
ELEVATION

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

151.69

November 8 19 75

Received of Dental Health Associates \$ 150.00

One Hundred Fifty and 00/100 DOLLARS

For ZBA Variance Application #95-60

DISTRIBUTION:

FUND	CODE	AMOUNT
CRF 8001		\$150.00

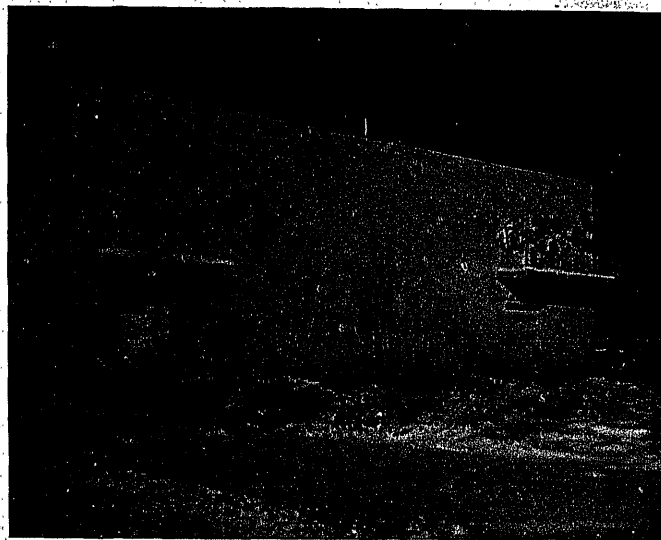
By Dorothy H. Hansen
CS

Town Clerk

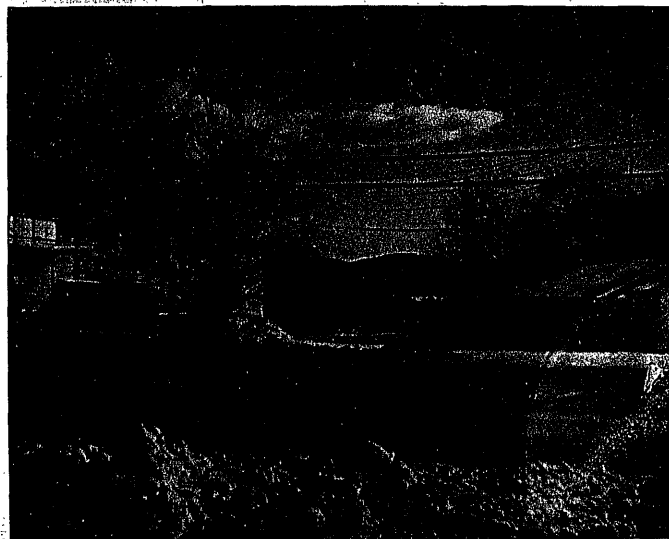
Title



WEST
ELEVATION



EAST
ELEVATION



AREA OF
RIGHT OF WAY

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Rosenbaum Industries/Stern

FILE # 95-60

RESIDENTIAL: \$ 50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA ☒

USE ☐

APPLICATION FOR VARIANCE FEE

\$150.00 paid
12/8/95 ck 8001

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES

\$500.00
12/8/95 paid
ck. 8002

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE 11/27/95 - 6 pages \$ 27.00
2ND PRELIM. MEETING - PER PAGE 12/11/95 - 9 pages \$ 40.50
3RD PRELIM. MEETING - PER PAGE \$
PUBLIC HEARING - PER PAGE \$
PUBLIC HEARING (CONT'D) PER PAGE \$
TOTAL \$ 67.50

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: 11/27/95 - 2 \$ 35.00
2ND PRELIM. 12/11/95 \$ 35.00
3RD PRELIM. \$
PUBLIC HEARING \$
PUBLIC HEARING \$
TOTAL \$ 70.00

MISC. CHARGES:

15 1st Class Notices - @ 32¢ per \$ 4.80
TOTAL \$ 115.30

LESS ESCROW DEPOSIT \$ 500.00
(ADDL. CHARGES DUE) \$
REFUND DUE TO APPLICANT \$ 384.70

Refund

(ZBA DISK#7-012192.FEE)

DENTAL HEALTH ASSOCIATES

DR. STEVEN P. STERN
DR. ALI ZANGENEH
375 WINDSOR HWY.
NEW WINDSOR, NY 12553

M & T BANK
375 WINDSOR HWY.
NEW WINDSOR, NY 12553
10-4/220 BRANCH 419

8001

12/8/95

PAY TO THE
ORDER OF

Town Of New Windsor

\$ *****150.00

One Hundred Fifty and 00/100***** DOLLARS

Town Of New Windsor
New Windsor, New York

MEMO

Variance Application ZBA #95-60

⑈00800⑈ ⑆022000046⑆ ⑈10009⑈ ⑈07680⑈

DENTAL HEALTH ASSOCIATES

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DR. ALI ZANGENEH
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NEW WINDSOR, NY 12553

M & T BANK
375 WINDSOR HWY.
NEW WINDSOR, NY 12553
10-4/220 BRANCH 419

8002

12/8/95

PAY TO THE
ORDER OF

Town Of New Windsor

\$ *****500.00

Five Hundred and 00/100***** DOLLARS

Town Of New Windsor
New Windsor, New York

MEMO

Escrow Deposit ZBA #95-60

⑈008002⑈ ⑆022000046⑆ ⑈10009⑈ ⑈07680⑈

Date Jun. 2, 1976

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Dental Health Assocs. DR.

375 Windsor Highway
New Windsor, N.Y.

Charge: ZBA Budget.

DATE _____

CLAIMED

ALLOWED

12/96

Refund - Escrow overpayment #95-60

384	70
-----	----

Approved: Patricia A. Bamhart
ZBA.

In the Matter of the Application of

ROSENBAUM INDUSTRIES/STERN, MOE

#95-60.

MEMORANDUM OF
DECISION GRANTING
AREA VARIANCES

WHEREAS, ROSENBAUM INDUSTRIES, INC., a corporation having an office at 389 Windsor Highway, New Windsor, New York 12553, Owner, and MOE STERN, c/o First American Leasing, 228 East 45th Street, New York, New York 10017, Lessee, have made application before the Zoning Board of Appeals for 18 off-street parking spaces, 7.2 ft. front yard, 19.8 ft. side yard and 24.6 ft. maximum building height for proposed medical/dental clinic at 389 Windsor Highway (formerly Rosenbaum's) in a C zone; and

WHEREAS, a public hearing was held on the 11th day of December, 1995, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared by Nicholas Steyer, P. E.; and

WHEREAS, there were two spectators appearing at the public hearing; and

WHEREAS, there was one spectator who spoke with a question; and

WHEREAS, one spectator spoke through Attorney Andrew Massimillan, Esq.; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The property is a commercial premises formerly used as a retail store located in a commercial neighborhood.

(b) The Applicant proposes to use the building for professional offices.

(c) There is additional parking which is used in common with the adjacent neighbor.

(d) The Applicant proposes no changes to the outside of the building. The amount of parking available is limited by the size of the parcel.

(e) It does not appear that the Applicant would be able to acquire additional land so as to accommodate additional parking.

(f) With the parking spaces to be used in common with the neighbor, the Applicant needs only a variance for nine spaces out of a required 74.

(g) The area variances were made necessary by changes in the law. The structure itself or its location have not changed and will not change upon granting of the variances.

(h) The height variances are required by one portion of the building to the rear, however, the exterior dimensions of the building will not change.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. The variances requested are not substantial.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but should be granted because granting such variances will enhance the value of the property and therefore also the value of other properties in the neighborhood.

6. It is the finding of this Board that the benefit to the applicant, if the requested area variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. It is the further finding of this Board that the requested area variances are appropriate and is the minimum variance necessary and adequate to allow the applicant relief from the requirements of the Zoning Code and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variance.

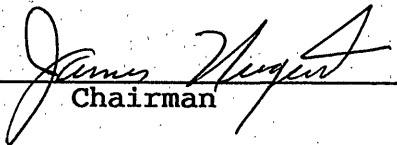
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT an 18 off-street parking space variance, 7.2 ft. front yard, 19.8 ft. side yard and 24.6 ft. maximum building height variances for proposed medical/dental clinic at 389 Windsor Highway (formerly Rosenbaum's) in a C zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: March 11, 1996.


Chairman

(ZBA DISK#13-030696.RI)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT-THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

LIBER 1990 PG 808

CORRECT

THIS INDENTURE, made the 30 day of July, nineteen hundred and seventy-four
BETWEEN

HAROLD J. ADAMS and VERONICA ADAMS, residing at Box 505
(no street or number), Maybrook, New York

party of the first part, and

ROSENEAUM INDUSTRIES, INC., a domestic corporation
having its principal place of business at 26 Liberty
Street, Newburgh, New York

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

TEN and no/100 (\$10.00) ----- dollars,
and other good and valuable consideration
lawful money of the United States, ----- paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected situate,
lying and being in the Town of New Windsor, Orange County, New York, bounded
and described as follows:

BEGINNING at an iron pipe set on the easterly line of Route 32, State Highway #9033 known as "Windsor Highway", said point being S41°24'20"W 150.20' and S38°17'40"W 154.50' from a stone monument found on the easterly line of said highway; thence leaving said highway in an easterly direction and along the southerly line of lands now or formerly of Checkerboard Properties Inc. S51°42'20"E 160.00' to an iron pipe set at the southeasterly corner of lands now or formerly of Checkerboard Properties Inc.; thence S38°17'40"W 30.00' along lands of the Grantor to an iron pipe set; thence S51°42'20"E 147.92' along lands of the Grantor to an iron pipe set; thence continuing through lands of the Grantor on the next four (4) courses:

- (1) S38°17'40"W 191.91' to an iron pipe set;
- (2) N51°42'20"W 117.21' to a railroad spike set;
- (3) N58°49'30"W 139.21' to an iron pipe set;
- (4) N74°00'37"W 56.82' to a railroad spike set in the easterly line of aforesaid highway; thence along the easterly line of said highway N38°17'40"E 260.73' to the point or place of beginning; containing 1.52 acres of land, more or less. X

Together with a right-of-way for purposes of ingress and egress over lands of the Grantor, being a strip of land twenty-five (25') feet in width, running along the southerly bounds of the above described parcel, more particularly described as follows:

BEGINNING at a railroad spike set on the easterly line of Route 32, State Highway #9033 known as "Windsor Highway", and also being at the southwesterly corner of above described parcel; thence leaving easterly line of said highway in an easterly direction through lands of the Grantor and along the southerly line of the above described parcel the next three (3) courses:

- (1) S74°00'37"E 56.82' to an iron pipe set;
- (2) S38°49'30"E 139.21' to a railroad spike set;
- (3) S51°42'20"E 117.21' to an iron pipe set at the southeasterly corner of the above described parcel; thence continuing through lands of the Grantor the next four (4) courses:

RIGHT
OF
WAY

(1) S38°17'40"W 25.00';
 (2) N51°42'20"W 115.65';
 (3) N58°49'30"W 134.32';
 (4) N74°00'37"W 63.75' to a point in the easterly line of the afore-
 said highway, thence along the easterly line of said highway N38°17'40"
 E 27.02' to the point or place of beginning.

RESERVING, however, unto the Grantor, their heirs, successors and assigns a right-of-way for the purpose of ingress and egress to other lands of the Grantors and subject to a permanent easement as described in a deed from Harold J. Adams to Checkerboard Properties Inc. over lands described as follows:

BEGINNING at an iron pipe set on the easterly line of Route 32, State Highway #9033 known as "Windsor Highway" also said point being at the southwesterly corner of lands now or formerly of Checkerboard Properties Inc.; thence leaving said highway in an easterly direction and along the southerly line of lands now or formerly of Checkerboard Properties Inc. S51°42'20"E 160.00' to an iron pipe set at the southeast corner of said land now or formerly of Checkerboard Properties Inc.; thence through lands of the Grantor S38°17'40"W 30.00' to an iron pipe set; thence continuing through lands of the Grantor N51°42'20"W 160.00' to a point in the easterly line of said State Highway; thence along the easterly line of said highway N38°17'40"E 30.00' to the point or place of beginning.

RESERVING, however, unto the Grantor, their heirs, successors and assigns, an easement and right-of-way for purposes of ingress and egress in the first above described parcel, being a strip of land twenty-five (25') feet in width, more particularly described as follows:

BEGINNING at a railroad spike set on the easterly line of Route 32, State Highway #9033 known as "Windsor Highway" and at the southwest corner of above described parcel, thence along the easterly line of said highway N38°17'40"E 27.02' to a P.K. nail set; thence leaving said highway in an easterly direction and through lands of the Grantor the next three (3) courses:

(1) S74°00'37"E 49.89' to a P.K. nail set;
 (2) S58°49'30"E 144.10' to a P.K. nail set;
 (3) S51°42'20"E 118.77' to an iron pipe set in the easterly line of the above described parcel; thence along said line and still through lands of the Grantor S38°17'40"W 25.00' to an iron pipe set; thence still through lands of the Grantor and along the southerly line of the above described parcel the next three (3) courses:

(1) N 51°42'20"W 117.21' to a railroad spike set;
 (2) N58°49'30"W 139.21' to an iron pipe set;
 (3) N74°00'37"W 56.82' to the point or place of beginning.

SUBJECT TO covenants, easements, grants and agreements of record.

This is a correction deed and is intended to more accurately describe the premises which were conveyed by Harold J. Adams and Veronica Adams to Rosenbaum Industries, Inc. by a deed dated April 9, 1974 and recorded in the Office of the Clerk of the County of Orange in Liber 1974 3484 to

1974 3484 to 838

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:


HAROLD J. ADAMS


VERONICA ADAMS

On the 18th day of August 1974, before me
came

HAROLD J. ADAMS

known to be the individual described in and who
executed the foregoing instrument, and acknowledged that
he executed the same.

WILLIAM X. SCHUSSHEIM
Notary Public, State of New York
Qualified in Orange County
Orange County No. 541
Comm. Expires March 30, 1975

STATE OF NEW YORK, COUNTY OF

On the 19 day of 19 , before me
personally came
to me known, who, being by me duly sworn, did depose and
say that he resides at No.

that he is the
of

the corporation described
in and which executed the foregoing instrument; that he
knows the seal of said corporation; that the seal affixed
to said instrument is such corporate seal; that it was so
affixed by order of the board of directors of said corpora-
tion, and that he signed his name thereto by like order.

On the 18th day of September 1974, before me
personally came

VERONICA ADAMS

to me known to be the individual described in and who
executed the foregoing instrument, and acknowledged that
she executed the same.

WILLIAM X. SCHUSSHEIM
Notary Public, State of New York
Qualified in Orange County
Orange County No. 541
Comm. Expires March 30, 1975

STATE OF NEW YORK, COUNTY OF

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in and which executed the foregoing instrument; that he
knows the seal of said corporation; that the seal affixed
to said instrument is such corporate seal; that it was so
affixed by order of the board of directors of said corpora-
tion, and that he signed his name thereto by like order.

Correction

Bargain and Sale Deed

WITH COVENANT AGAINST GRANTOR'S ACTS

E No.

HAROLD J. ADAMS and
VERONICA ADAMS
TO

OSENBaum INDUSTRIES INC.

SECTION

BLOCK

LOT

COUNTY OR TOWN

E 725

Recorded At Request of The Title Guarantee Company
RETURN BY MAIL TO:

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS

Distributed by

THE TITLE GUARANTEE COMPANY



PCR
MILTON M. SCHUSSHEIM
2 MOULTON AVENUE
HIGHLAND PARK, N. Y. 10928

Zip No.

Chs.
Greenblatt & Neuman P.C.
P.O. Box 3275
Newburgh, N.Y.

SEAL
COUNTY

351001

REAL ESTATE
TRANSFER TAX

STATE OF
NEW YORK

00.00

chw

LIBER 1990 PG 811

Orange County Clerk's Office, S.S.

Recorded on the *34th* day

Sept 1974 at *5:15*

Deeds at page *808*

Examined

C. N. Winters

Date 12/22/95 19

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr DR
New Windsor NY 12553

DATE			CLAIMED	ALLOWED
2/11/95		Zoning Board Meeting	75.00	
		Misc. - 2		
		Balthstein - 8		
		Digeratu - 4		
		Denhoff - 4		
		Rhodes - 19		
		H.R. & C - 10		
		Rosenbaum 9 = 40.50.		
		56 pgs	252.00	
			327.00	

ROSENBAUM INDUSTRIES/STERN

MR. NUGENT: Request for 10 off-street parking spaces and possibly 7.2 ft. front yard, 19.8 ft. side yard and 24.6 ft. maximum building height for proposed medical/dental clinic at 389 Windsor Highway (formerly Rosenbaum's) in a C zone.

Mr. Nick Steyer of Cuomo Engineering appeared before the board for this proposal.

MR. NUGENT: Is there anyone in the audience for this?

MR. STEYER: It's a 1.53 acre parcel in a C district. The proposed use is the upper level will be used for three dentists and 12 examining rooms, the lower level will be used for 10,868 square feet of professional offices. Our parking requirements are for the medical uses, one parking spot per examining room plus four spaces for each dentist and the lower level professional office is 200 square feet or one space per 200 square feet of gross usable floor area, our total parking required is 83 parking spaces. Our proposal as shown on the plan is 74 parking spaces, of those 74, there are 9 spaces that I highlighted in yellow that are questionable, I gave the town attorney the deed which the deed is a right-of-way for a use to the adjacent property owner which is Mr. DeDominicis. And that's about it.

MR. BABCOCK: Mr. Chairman, just one note, it's 73 spaces that are provided.

MR. STEYER: I did add one spot.

MR. BABCOCK: You have to tell me those things.

MR. NUGENT: Does he need ten or ten?

MR. BABCOCK: You're asking for nine?

MR. STEYER: I would like to get, if we're not allowed to use the spaces that I have got highlighted in yellow.

MR. BABCOCK: The board already decided that last time they had no problem with you using those.

MR. KRIEGER: Yes, you can.

MR. STEYER: We can use those parking spaces so then we'd like to provide 74 parking spaces which would be 9, we'd be short.

MR. BABCOCK: You're asking for a variance of nine?

MR. STEYER: Yes.

MR. LANGANKE: You're going for the maximum required parking spaces, if you were to get like different tenants in there, it's conceivable that you won't need that many parking spaces, is that correct?

MR. STEYER: Well, that is partially correct. I mean, the professional offices on the lower level is really what would be most accommodating to this building. So we're planning on that and the tenant is the buyer and he knows what he is going to use, he's the dental use.

MR. TORLEY: And the possible 7.2 foot that is because there's maybe a pre-existing nonconforming, is that why it's--

MR. STEYER: That is the front yard, yes, that is pre-existing, nonconforming.

MR. TORLEY: Why don't we include that in the variance anyway, clean it up.

MR. NUGENT: We are.

MR. TORLEY: Take out the possibility.

MR. NUGENT: All right.

MR. LANGANKE: I'm glad to see the building being developed.

MR. KRIEGER: There will be no significant changes to the exterior of the building I take it?

MR. STEYER: Yes, it will be, the building will be renovated but footprint will remain the same.

MR. KRIEGER: The footprint will remain the same?

MR. STEYER: Yes, footprint, right.

MR. KRIEGER: It's a largely, if not almost entirely commercial area.

MR. STEYER: Correct.

MR. KRIEGER: Have you looked into any other possibilities other than the variance request?

MR. STEYER: Yes, but for the use that is proposed it's--

MR. KRIEGER: No other way to do it?

MR. STEYER: Right.

MR. KRIEGER: Okay.

MR. NUGENT: I have just one question. Where is that building, 28 feet high in the back?

MR. STEYER: Yes, right at this corner.

MR. BABCOCK: It's two stories, Jim, plus the peak.

MR. STEYER: It's full two stores in the corner in the front, it looks like a single story building from 32 but as you go down this right-of-way, it drops off to where you can tell it's two stories, actually on both sides like that.

MR. NUGENT: Okay, that is where the major variance came in for the building height for the back, not the front.

MR. BABCOCK: Right.

MR. KRIEGER: Addressing my question to the building

inspector, does it appear its present construction facade on 32 doesn't appear inconsistent with the other buildings in the neighborhood?

MR. BABCOCK: No.

MR. TORLEY: Would you entertain a motion?

MR. NUGENT: I have to open it up to the public first, if there's anybody in the public would like to speak, state your name and address so the steno can get it.

MR. VINCENT SORBELLO: Riley Road. I'd like to look at the drawing just to see where the parking is. I own the property in the rear of this building and I just, my question was if they were going to use any of the right-of-way down the side of the building for parking and they are not the parking on the other right-of-way that is that right-of-way belongs to me also and three of us I assume that right-of-way is a common right-of-way for three, the three parties, is that the way it's written? I'm not real big on who owns that 30 feet they are using for parking.

MR. KRIEGER: It appears from examining the deed that they have a sufficient claim of ownership to allow them to make this application. Beyond that I am not going to make any other interpretations or decisions as to who else might and whether there's also another ownership interest because it goes beyond what this board has to decide at this point. Their inquiry is only limited to this applicant and this application for the purpose of this application. They can use the, for lack of a better term, call it disputed parking area, the parking area that has been highlighted on the site plan map. They can, whoever else can, that is not up to this board to determine at this point one way or the other.

MR. SORBELLO: I don't have anything further.

MR. ANDREW MASSIMILLAN: 414 West 120th Street, New York. I am here on the behalf of the owner of the property adjacent, Tony DeDominicis who the engineer has mentioned was here tonight. We basically don't

have a problem with the parking with the exception of the parking that is shown in yellow. Now, we have Mr. DeDominicis purchased this property a few years ago and part of the purchase price reflected a deed easement that allows him to use those what would be an area of 30 feet which those spaces would effectively wipe out for ingress egress and his temporary parking. He has used that as a turning area, there are actually paint, there's striping on there or lines, directional lines for traffic on that area I understand and if the board allows the applicant to use those spaces, well, you're taking away his right to effectively use it for ingress and egress and that is going to cause--

MR. KANE: My understanding was those parking spaces are down from a drop from the next property.

MR. STEYER: That is correct. What I'd just to clarify that a little bit, I was out there this morning also, there's a significant drop and I have discussed this with Mr. DeDominicis today. He said well, I can use that, he has been using it so not to mislead the board but you can get your car over it but it's, there's definitely a dropoff at the end. You can tell where the planters are indicated here. Mr. DeDominicis just plowed that lot, it's plowed right to the edge of the planters so it is not, I'm not, I don't wish to get in an argument with him about it but you can tell it hasn't been used, at least he doesn't plan own using it now. He plowed right to where the planters are shown over here.

MR. LANGANKE: If we say that he can use them, are we saying that he cannot use them?

MR. NUGENT: No.

MR. STEYER: No, he has a right to use them.

MR. MASSIMILLAN: But effectively you're in that, the way that this is arranged, if these cars are parked and I'm talking about you could see this dotted line, this area here is 30 feet and if these cars are parked there and quite clearly these spaces, which is clearly in that zone, he can't use that effectively for ingress

egress and that is what the deed says for movement, that is basically what you would be saying, you would be saying that DeDominicis, if these people have parking spaces, he can't use it.

MR. NUGENT: Didn't you say that there's a planter there?

MR. STEYER: There's planters, this right here are the planters.

MR. TORLEY: They are there right now?

MR. STEYER: Yes.

MR. MASSIMILLAN: But it's still paved here.

MR. NUGENT: Are they far apart enough for a car to pass through?

MR. MASSIMILLAN: Yeah, that is there, that is what I am saying, there's striping here or arrows.

MR. TORLEY: If I look at the plan, this is something that may be better suited to the planning board.

MR. NUGENT: He has to go back to them anyway.

MR. KRIEGER: That was something I'm going to put in the record regardless of any action this board may take, it's before any construction or conversion takes place, he has to get site plan approval from the planning board.

MR. STEYER: Correct.

MR. LANGANKE: How many parking spaces are we talking about there?

MR. STEYER: You're talking these highlighted spaces, 7 spaces here and two spaces here.

MR. TORLEY: You have a total of 74?

MR. KRIEGER: It would turn your nine application into

an 18 application, if it didn't count.

MR. STEYER: I don't think the perspective purchasers of the property would just let me blindly disregard these 9 parking spaces.

MR. KRIEGER: Nobody's asking you to. I'm just saying if that were to be the case not because you asked if that were the case, your 9 application here would become an 18 application.

MR. STEYER: Right.

MR. TORLEY: Now I have a question. Should the planning board say no, you can't use those, does he have to come back here again? It changes his variance request to 18.

MR. KRIEGER: If he is granted 9, then he would have to come back but if he is granted 18, he doesn't have to come back because he already has the--

MR. LANGANKE: What if we change the request to 18?

MR. TORLEY: Or ask the applicant to change the request to 18.

MR. KRIEGER: He can certainly do that, we went through that before since there's nothing published he can certainly do that.

MR. STEYER: I can change it right here, right now? Then I'll do that in order just to achieve that variance but I'm certainly not giving up my client's right to those 9 parking places.

MR. KRIEGER: There's not a tribunal that can determine your client's legal rights or anybody's legal rights to that use, any such application is only for the purpose of the zoning request.

MR. KANE: The only thing that happens if you go before the planning board and they decide that that is a disputed parking area and you can't use those spaces, you don't need to come back for another variance on

your parking spaces, you're covered.

MR. STEYER: Great.

MR. KRIEGER: It does not determine the respective rights to use that property as outlined by yourself and Mr. Massimillan.

MR. MASSIMILLAN: So if he is going to change his application, can the application read that the spaces, that the application will not include these?

MR. KRIEGER: No. Only ask for a number, if he's allowed a reduced count, then provided he can put them on the property somewhere, it's not within the province of this board to tell him where.

MR. TORLEY: If he asks for 18, turns out that he can put in another 9, that is fine.

MR. KANE: Whatever we decide has nothing to do with the rights to those spaces.

MR. MASSIMILLAN: But he's changing it to 18 now.

MR. KRIEGER: This board can't tell him where to put the parking places, that is the planning board's function.

MR. MASSIMILLAN: Okay, thank you.

MR. NUGENT: We're changing it to 18.

MR. STEYER: Thank you.

MR. NUGENT: We have an amended disapproval from 9 to 18 spaces, part of the application will read for ten off-street parking places, it will be 18.

MS. BARNHART: It's 65, not 63.

MR. BABCOCK: I wrote 63, I wrote 65 on mine.

MS. BARNHART: It says 63 on ours.

MR. BABCOCK: It's 83, I got the 3 and a 5 mixed up.

MR. NUGENT: Mind if I make that a five?

MR. BABCOCK: No, not at all. My paper says ten but then it was changed earlier to nine, I changed that, I'd say there's a little confusion. There's quite a few marks here. The beginning of the meeting we changed it to nine cause he found one more space.

MR. NUGENT: Are there are any further questions by the audience? Hearing none, I'll close the public hearing, open it back up to the board. Any further questions?

MR. LANGANKE: I don't have any questions.

MR. NUGENT: Then I'll accept a motion.

MR. LANGANKE: I make a motion that we grant the applicant his request for 18 off-street parking spaces, a 7.2 foot front yard, a 19.8 foot side yard and a 24.6 foot maximum building height for a proposed medical dental clinic at 389 Windsor Highway.

MR. REIS: Second it.

ROLL CALL

MR. LANGANKE	AYE
MR. KANE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE
MR. REIS	AYE

MR. TORLEY: Motion we adjourn.

MR. REIS: Second it.

ROLL CALL

MR. LANGANKE	AYE
MR. KANE	AYE
MR. TORLEY	AYE

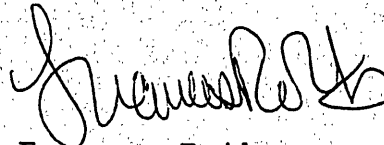
December 11, 1995

56

MR. NUGENT
MR. REIS

AYE
AYE

Respectfully Submitted By:

A handwritten signature in cursive script, appearing to read 'Frances Roth', written in dark ink.

Frances Roth
Stenographer

Public Hearing - Rosenbaum/Stern

12/11/95 -

TONY DEMICHIELIS
701 JACSON AVE.
CONWALL, NY.

ANDREW MASSIMILIAN
414 W. 120th ST.
NY, NY.

Vince Sorbello
454 Rye Rd

83
1.54
65

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of

Rosenbaum Industries / Stern

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

95-60.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On Nov. 28, 1995, I compared the 15 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
28th day of November, 1995.

Deborah Allen
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1997

(TA DOCDISK#7-030586.AOS)

(2) 63.06 LOT WIDTH. DECISION DENYING: (3) 58.5 FT. FRONT YARD, (4) 26.25 FT. SIDE YARD, (5) 12 FT. BLDG. HEIGHT, (6) 13 FT. SIGN SET BACK, AND (7) 46

65-2-12 CARROLS CORPORATION SIGN VARIANCE GRANTED
ROUTE 32 C ZONE #92-22 10/26/92

REQUEST FOR 152 S.F. SIGN AREA VARIANCE FOR A FREE-STANDING SIGN WITH ATTACHED READER BOARD AT ROUTE 32 LOCATION IN C ZONE.

65-2-12 PLAZA PROPERTIES-BIG V SIGN VARIANCE GRANTED
WINDSOR HIGHWAY #75-19 7/28/75 C ZONE

REQUESTS FOR 112 S.F. SIGN AREA VARIANCE

65-2-12 PLAZA PROPERTIES INC. VARIANCE-AREA GRANTED
(GRANT'S EXTENSION) RT. 32 - #71-8

65-2-12 BILA PARTNERS AREA VARIANCE GRANTED
ROUTE 32 (BIG V PLAZA) C ZONE #89-25 09/11/89

REQUEST FOR 13 FT. 4 IN. BUILDING HEIGHT AND 213 PARKING SPACE VARIANCE TO ALLOW CONSTRUCTION OF NEW SHOPRITE SUPERMARKET ON RT. 32 IN C ZONE.

65-2-12 BILA PARTNERS (CALDOR) SIGN VARIANCE GRANTED
WINDSOR HIGHWAY C ZONE #91-16 07/22/91

REQUEST FOR 241 S.F. SIGN VARIANCE AND 7 FT. HEIGHT VARIANCE FOR A BUILDING SIGN AT BIG V PLAZA IN C ZONE.

65-2-13 ACTION AUDIO INC. VARIANCE GRANTED
339 WINDSOR HIGHWAY #71-17

65-2-13 ARCHIE'S SHOE PLAZA SIGN AREA VARIANCE GRANTED
343 WINDSOR HIGHWAY #73-18 LB ZONE

65-2-13 KASS, FREDERICK (ACTION AUDIO) USE/AREA VARIANCE-SPLIT DEC.
367 WINDSOR HIGHWAY #84-6 C ZONE 6/11/84

ZBA GRANTED 35 FT. REAR YARD VARIANCE FOR PROPOSED NEW 6,000 S.F. WAREHOUSE; ZBA GRANTED USE VARIANCE PORTION FOR WAREHOUSE IN R-4 ZONE TO BE CONVERTED TO STORES; ZBA DENIED USE VARIANCE AND AREA VARIANCES FOR PROPOSED NEW TWO-STORY OFFICE BUILDING.

65-2-13 KASS, FRITZ (ACTION AUDIO) SIGN VARIANCE GRANTED
367 WINDSOR HIGHWAY C ZONE #87-9 03/23/87

REQUEST FOR INDIVIDUAL SIGN AREA VARIANCES FOR 16 FACIA SIGNS FOR TENANTS IN MINI-MALL, EACH SIGN NOT TO EXCEED 2.5 X 16 FT. (NO MORE THAN 40 S.F.).

65-2-14 FIRST CHARTERED S&L SIGN VARIANCE GRANTED
WINDSOR HIGHWAY #75-13 C ZONE 5/24/75

REQUEST FOR 115 S.F. SIGN AREA VARIANCE FOR BANK.

65-2-15 CHECKERBOARD PROP. INC. #70-14 SIGN VARIANCE GRANTED
ROUTE 32 (JACK/BOX)/LB ZONE MENU-TYPE 9/21/70

ORIGINAL APPLICATION CALLED FOR TWO OVERSIZED SIGNS, ONE FREE-STANDING AND BUILDING SIGNS. APPLICANT WITHDREW THIS PROPOSAL AND OPTED FOR A MENU-TYPE SMALLER SIGN WHICH FELL WITHIN REGULATIONS.

65-2-16.1 ROSENBAUM INDUSTRIES/STERN AREA VARIANCES GRANTED
389 WINDSOR HIGHWAY C ZONE #95-60 12/11/95
REQUEST FOR 18 OFF-STREET PARKING SPACES, AND 7.2 FT. FRONT YARD, 19.8 FT. SIDE YARD AND 24.6 FT. MAXIMUM BUILDING HEIGHT FOR PROPOSED MEDICAL/DENTAL CLINIC AT 389 WINDSOR HIGHWAY (FORMERLY ROSENBAUM'S) IN A C ZONE.

65-2-18,24 LUKACIK/DAIDONE AREA VARIANCE GRANTED

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

95-60

Date: 11/27/95

I. Applicant Information:

- (a) ROSENBAUM INDUSTRIES, INC., P.O. Box 428, Vails Gate, N. Y. 12584 x
(Name, address and phone of Applicant) (Owner)
- (b) STERN, MOE, & First American Leasing, 228 East 45th St., N.Y., N. Y. 10017
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) PAUL V. CUOMO ENGINEERING, 2005 D Street, Bldg. 704, New Windsor, N.Y.
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- () Use Variance () Sign Variance
- (x) Area Variance () Interpretation

III. Property Information:

- (a) C 389 Windsor Highway, New Windsor, N.Y. 65-2-16.1 1.53 acres+
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? Yes
- (d) When was property purchased by present owner? 10/05/60
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? No
If so, when? -
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: n/a
- _____
- _____
- _____
- _____

IV. Use Variance. n/a

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow: _____
(Describe proposal) _____
- _____
- _____
- _____
- _____

n/a
 (b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) n/a Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No x.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. E, F, I & O.

Requirements		Proposed or Available	Variance Request
Min. Lot Area	40,000 s.f.	65,274 s.f.	-
Min. Lot Width	200 ft.	240 ft.	-
Reqd. Front Yd.	60 ft.	52.8 ft.	*(1) 7.2 ft.
Reqd. Side Yd.	30 ft.	10.2 ft.	*(1) 19.8 ft.
Reqd. Total "	70 ft.	116 ft.	-
Reqd. Rear Yd.	30 ft.	114 ft.	-
Reqd. Street Frontage*	n/a	-	-
Max. Bldg. Hgt.	4"/ft. x 10.2 = 3.4 ft.	28 ft.	*(1) 24.6 ft.
Min. Floor Area*	n/a	-	-
Dev. Coverage*	n/a %	- %	- %
Floor Area Ratio**	0.5	0.33	-
Parking Area	83	73	10

*(1) Pre-existing, non-conforming

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(See attached recitation - Page 3A)

(You may attach additional paperwork if more space is needed)

VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. n/a

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

(See attached site plan)

IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☐ Copy of contract of sale, lease or franchise agreement.
- ☐ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☐ Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$150.00 and the second check in the amount of \$500.00, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: November 27, 1995

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Andreas P. Leyer agent for
(Applicant)

Sworn to before me this

8th day of December, 1995.

XI. ZBA Action:

(a) Public Hearing date: _____

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1997.

(b) Applicants, ROSENBAUM INDUSTRIES, as owner, and DR. MOE STERN, as lessee, seek to construct structural changes to the former Rosenbaum Industries Catalog store located at 389 Windsor Highway in a C zone in order to utilize the building for a medical and dental clinic. Applicants are proposing to use the upper level for dental and medical offices and lease the lower floor for professional offices. The building has been vacant for a number of years.

Applicants have been to the Planning Board and are at present being referred to the Zoning Board of Appeals for the following area variances: (1) 24.6 ft. maximum building height, (2) 10 off street parking spaces, also pre-existing conditions, such as 7.2 ft. front yard variance and 19.8 ft. side yard variance in order to accomplish the above.

It is the opinion of the Applicants that the proposed medical and dental clinic will work well and be an asset to the neighborhood and community and will not be a detriment to the health, safety or welfare of the neighborhood or community because of the fact that the structure is conducive to the C zone.

The requested variances will not result in substantial detriment to the adjoining properties or change the character of the neighborhood.

Applicants believes that the proposal before the Board will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Applicants believe that the requested area variances are not substantial and the Board should grant the variances so that Applicant can occupy a building which has been otherwise vacant for a long period of time.

Applicants know of no other feasible method available to pursue which can produce the necessary results other than the variance procedure.

When considering the proposal before the Board it should be noted that the difficulty is not self-created because Applicant STERN proposes to lease the building as a medical and dental clinic in a C zone, a permitted use.

Applicants propose certain architectural improvements which will enhance the existing structure and allow it to conform to the C zone designation.

The interest of justice would be served by allowing the granting of the requested variances.

For the above reasons, Applicants believe that the granting of the requested variances will be advantageous to the area.

(b) Variance: Granted (____) Denied (____)

(c) Restrictions or conditions: _____

_____.

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 60

Request of ROSENBAUM INDUSTRIES INC. and MOE STERN

for a VARIANCE of the Zoning Local Law to permit:

Conversion of building to medical or dental offices with insufficient

front yard, side yard, parking spaces and more than the allowable
building height;

being a VARIANCE of Section 48-12 - Table of Use/Bulk Regs.,

Columns E, F, I & O

for property situated as follows:

389 Windsor Highway (formerly Rosenbaum's), New Windsor, N. Y. 12553

known as tax lot Section 65 Block 2 Lot 16.1

SAID HEARING will take place on the 11th day of December,
19 95, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P. M.

JAMES NUGENT
Chairman

PROXY AFFIDAVIT

SUBMISSION OF APPLICATION FOR VARIANCE # 95-60

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

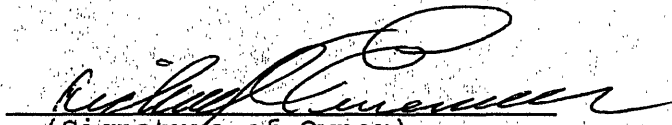
STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

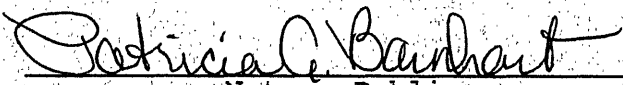
RICHARD ERNEST WEIN, deposes and says:
I am the OWNER of a certain parcel of land within the TOWN OF NEW
WINDSOR designated as tax map SECTION 65 BLOCK 2
LOT 16.1. I HEREBY AUTHORIZE Nicholas Steyer
of Cromo Engineering (company name) to make an
application before the ZONING BOARD OF APPEALS as described in
the within application.

Dated: 12-11-95.


(Signature of Owner)

Sworn to before me this

11th day of December, 1995.


Notary Public

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County

(ZBA DISK#1-060895.PXY)

Commission Expires August 31, 1997.

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 95-31

DATE: 15 NOV 95

APPLICANT: DR. MOE STERN

% FIRST AMERICAN LEASING

228 EAST 45TH STREET

NEW YORK N.Y. 10017

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 19 OCT 95

FOR (~~SUBDIVISION~~ - SITE PLAN) _____

LOCATED AT 145 RT 32 EAST OF 5 CORNERS

ZONE _____

DESCRIPTION OF EXISTING SITE: SEC: 65 BLOCK: 2 LOT: 16.1

IS DISAPPROVED ON THE FOLLOWING GROUNDS: PARKING VARIANCE.

POSSIBLE NEED FOR FRONT YARD SIDE YARD AND

BLDG HEIGHT VARIANCES. (THERE MAY BE PRE-EXIST NON-CONF)

MARK A EDGALL FOR

MICHAEL BABCOCK,
BUILDING INSPECTOR

<u>REQUIREMENTS</u>		<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>C</u>	USE <u>A-3</u> <u>A-9</u>		
MIN. LOT AREA	<u>40 000 SF</u>	<u>65 274 NET</u>	<u>—</u>
MIN. LOT WIDTH	<u>200 FT</u>	<u>240 FT</u>	<u>—</u>
REQ'D FRONT YD	<u>60 FT</u>	<u>52.8 FT</u>	<u>* (1) 7.2 FT</u>
REQ'D SIDE YD.	<u>30 FT</u>	<u>10.2 FT</u>	<u>* (1) 19.8 FT</u>
REQ'D TOTAL SIDE YD.	<u>70 FT</u>	<u>116 FT</u>	<u>—</u>
REQ'D REAR YD.	<u>30 FT</u>	<u>114 FT</u>	<u>—</u>
REQ'D FRONTAGE	<u>N/A</u>	<u>—</u>	<u>—</u>
MAX. BLDG. HT. $4''/FT \times 10.2 = 3.4$		<u>28</u>	<u>24.6 * (1)</u>
FLOOR AREA RATIO	<u>0.5</u>	<u>0.33</u>	<u>—</u>
MIN. LIVABLE AREA	<u>N/A</u>	<u>—</u>	<u>—</u>
DEV. COVERAGE	<u>N/A</u> %	<u>—</u> %	<u>—</u> %
O/S PARKING SPACES	<u>B3</u>	<u>B (65)</u>	<u>B (18)</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT: (914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS. * (1) PRE-EXISTING NON-CONFORMING

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

REVISED 12-11-95
MB

DR. STERN & DR. ZANGENEH - SITE PLAN (95-31) - RT. 32

Mr. Nick Steyer appeared before the board for this proposal.

MR. STEYER: This is the former Rosenbaum's building on 32. It's 1.53 acre parcel in a designed shopping district. The proposed use for it is the upper level will be used for dental and medical offices. Presently Dr. Stern is going to take half of the existing building and plans on having another medical tenant for the remainder of the upper floor. Downstairs, there is no tenant in mind but he is going to lease the whole thing for professional offices. Currently, there are a couple of non-conformities that are pre-existing. There are front yard, building height and side yard. As I said, they are all pre-existing, nonconforming. The only nonconformity that we have on the site plan is parking. We're required 83 parking spaces, the way the plan is laid out and this is the most parking we can get on the site plan we have 73 spaces. The reason we're here tonight is to get a denial and referral to the Zoning Board to seek that variance.

MR. PETRO: Mark, the height is incorrect?

MR. EDSALL: I believe it's four inches per foot, it should be 12 foot allowable.

MR. STEYER: It's probably true.

MR. EDSALL: So that is just again it would be again a pre-existing non-conforming. I just wanted to have the right number there.

MR. KRIEGER: Just want to note probably pre-existing non-conforming isn't going to do it when you get to the Zoning Board. The burden of proof is going to be on the applicant to show that and if there's any doubt the applicant will have to apply for a variance.

MR. EDSALL: Right.

MR. STEYER: We can do that.

MR. VAN LEEUWEN: Can I ask you a question? Isn't there an agreement made with the people that own the Jack-in-the-Box that they also have rights to this parking?

MR. STEYER: That was my question. See this area on the map? We have two deeds that I found on this little strip here, one of them says temporary easement for parking for Jack-in-the-Box and the other one says a permanent easement. So that is being researched right now through the title companies at worse case we're going to lose these parking spaces right here, if we do, we'll have to increase our request on the variance and lose this.

MR. PETRO: Well, you're only asking for nine spaces at this point.

MR. STEYER: Right.

MR. LANDER: How many spaces do you need?

MR. PETRO: 83, he has 73.

MR. STEYER: Ten spaces. There is a possibility we may be asking for 17, if we do lose these spaces.

MR. PETRO: I think doctors sometimes are a little spread out in the times that they, would the lot be full all the time in a doctor's office? I would doubt that.

MR. LANDER: What's the proposed retaining wall, what's the grade difference between there and the second floor?

MR. STEYER: It's roughly eight feet, we want to provide a lower parking area here with say a glass type entry foyer from both levels, the lower parking and upper parking area.

MR. PETRO: What about the drainage here? I know there's a stream right to the right-hand side of this or south side.

MR. STEYER: Yeah, it runs there through this corner right now everything in the back is sheet flow and it's really a mess as far as drainage goes because it seems to go down to this area and then flow back into this lower parking area.

MR. VAN LEEUWEN: You know where all that water goes all the way down to Cimorelli where it can't go any further.

MR. PETRO: Passed Charlie Catanzaro in the back.

MR. VAN LEEUWEN: Stops at Bobby's, there is a ten foot easement that goes across all the properties in the back, I don't think this has a ten foot easement.

MR. STEYER: It's got two sewer easements, that is it.

MR. VAN LEEUWEN: We would ask you for the ten foot easement because originally, we wanted to do it all the way up 32 and of course down below then we got to see if we can get rid of the water on the other end because it all hits in the back.

MR. EDSALL: This one runs down toward 94, this goes toward 94.

MR. PETRO: What you're saying, you said that corner, I think it's on the south side there.

MR. LANDER: It's on the south side, goes underneath Charlie's building.

MR. STEYER: There's actually two, you see the head wall, there's a head wall here and here, and in that corner, there's another, it was dry every time I have been there, but it looked like an old drainage swale that runs this way, I believe.

MR. PETRO: I think the bulk of it is on the south side here, that is a pretty big stream that goes underneath Charlie's building.

MR. LANDER: What they are trying to do there they have a loading dock in the back now and what they were

October 25, 1995

19

trying to do is getting the water coming down the hill used to turn and go towards the loading dock and it would be flooded so they were trying to get it to go towards the stream. That is why the swale is over on this side. It's on the northeast side.

MR. BABCOCK: This water crosses 94 by Forge Hill Country Furniture.

MR. LANDER: By Kingswood.

MR. PETRO: So we won't ask for the easement on the back of this.

MR. VAN LEEUWEN: No, most of this water runs up in, see, you have Sorbello's property, he's got that piece right behind that.

MR. BABCOCK: Firehouse.

MR. VAN LEEUWEN: And also on the side of New Windsor Mall.

MR. PETRO: Where is his access?

MR. VAN LEEUWEN: His access is a strip, it should be right in here somewhere.

MR. STEYER: Curb cut right there.

MR. PETRO: Right-of-way I see it 20 foot.

MR. PETRO: Can I have a motion?

MR. VAN LEEUWEN: I make a motion we approve.

MR. DUBALDI: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Dr. Stern Dr. Zangeneh site plan on Route 32. Any further discussion from the board members? If not, roll call.

MR. VAN LEEUWEN: Yes, Mr. Chairman, I think our

October 25, 1995

20

attorney should get involved in this agreement with the other property owner on the parking so we can get that ironed out.

MR. LANDER: With Jack-in-the-Box?

MR. VAN LEEUWEN: Yeah.

MR. KRIEGER: Yeah, after the Zoning Board acts on it, if they approve when it comes back.

MR. BABCOCK: We need to know how many spaces.

MR. PETO: We have to do it before you already have some information coming back to you, get in touch with Andy and review it with him.

MR. STEYER: Sure.

MR. KRIEGER: I'll need to look at the deeds.

MR. BABCOCK: I would write it up for 17.

MR. PETRO: Or write it up for 17.

MR. STEYER: I was going to do that.

MR. KRIEGER: Write it up for 17 and by the time of the public hearing, you can always reduce, you can't add.

MR. STEYER: Thank you.

MR. PETRO: Motion has been made and seconded.

ROLL CALL

MR. STENT	NO
MR. LANDER	NO
MR. DUBALDI	NO
MR. PETRO	NO
MR. VAN LEEUWEN	NO

MR. PETRO: Please go to the Zoning Board, get the variances that are required and come back to see us at this board.

October 25, 1995

21

MR. STEYER: Thank you.

Date 12/4/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr. DR.

New Windsor, N.Y. 12553

DATE

CLAIMED

ALLOWED

11/27/95	Zoning Board Meeting	75.00	
	Misc. - 1		
	HRC - 6		
	Rosenbaum - 6 27.00		
	Taromanides - 3		
	Roberts - 4		
	Dori Associates - 9		
	Olson - 10		
	Schlesinger - 3		
	Johnson - 3		
	<u>45pp</u>	<u>202.50</u>	
		277.50	

ROSENBAUM INDUSTRIES/STERN

MR. NUGENT: Referred by planning board for 10 off-street parking spaces and a possibly 7.2 ft. front yard, 19.8 ft. side yard and 24.6 ft. maximum building height for proposed medical or dental clinic at 389 Windsor Highway (formerly Rosenbaum's) in a C zone.

Mr. Nick Steyer of Cuomo Engineering appeared before the board for this proposal.

MR. STEYER: Everybody probably knows this parcel as the old Rosenbaum's building, it's a 1.35 acre parcel located in a C district. The proposal is for the upper level to be three dentists and 12 exam rooms, the lower level is professional offices that is 10,868. Our parking requirements for the total building is 83 parking spaces. What we have proposed on our site plan is 74, that is basically all we can fit in there. The reason why I passed that deed to Mr. Krieger is even with those 74, these spaces that I have highlighted in yellow are still questionable because I'm not sure of exactly how far back but those, this area right here was granted an easement to what used to be Jack-in-the-Box for parking, even though they really can't use it because it's roughly 18 to 24 inch dropoff between parking lots, we would like to use this and I guess I'm asking the zoning board's advice on whether they'll still allow us to use those spaces in our computations for parking, if not, we would need 17 or 18 parking space variance.

MR. LANGANKE: Why was an easement granted to the then Jack-in-the-Box?

MR. STEYER: It was a right to use, I passed that to Mr. Krieger, he can probably make more sense out of that than I can.

MR. KRIEGER: Appears to be an agreement to use those parking places jointly. It wasn't an exclusive easement, it was a, looks like it was designed to allow the others to the adjacent parcel to use it as well.

MR. NUGENT: Who does the property actually belong to,

Rosenbaum or Jack-in-the-Box?

MR. STEYER: No, Rosenbaum's, they own the property.

MR. KANE: So, there's a right to use those specific parking spots for both businesses?

MR. STEYER: Right. I'll bring this just over to you, it's actually done by metes and bounds, this area right here, I have these spaces and those two in that area, it drops off right here about 18 to 24 inches, you couldn't drive a car over that.

MR. KANE: I have no problem with them using those spaces, I don't see a problem.

MR. NUGENT: No, if the property belongs to the owner then it's not their problem, it's the other guy's problem, you can't park on somebody else's property.

MR. KRIEGER: Yes, if it's on their property, then according to this deed, this owner still has the right to use them, if they haven't been given up, so I agree if there were requests by an adjacent, the adjacent property owner, it would be more troubles.

MR. NUGENT: So you are telling us that with those included, you have 74?

MR. STEYER: Correct.

MR. BABCOCK: 73.

MR. STEYER: 73, okay, I'm sorry.

MR. LANGANKE: But you're also saying that it cannot be physically used by the other party because there is a 28" dropoff?

MR. STEYER: I can get there with my truck but I wouldn't take an Acura over it, it would bottom out in most cars.

MR. LANGANKE: So people from the other establishment do not use it.

MR. STEYER: No, right now it doesn't appear that they are doing the business to even consider that but that is not to say five years from now they might do better.

MR. REIS: Have you had any communication with them as to--

MR. STEYER: Very brief with the owner that would be, I can't remember his name off the top of my head.

MR. REIS: Tony.

MR. STEYER: Tony DeDominicus, I spoke with him very briefly, I don't even think he was aware that he had the right to use those or he didn't tell me that he knew about it. I only spoke with him once very briefly.

MR. KANE: I don't see there is a problem, gave the guy the opportunity to use the parking spots on his location.

MR. TORLEY: You got first call, what's possibly 7.2 foot front yard?

MR. STEYER: The rest of these are pre-existing nonconformities.

MR. TORLEY: Curious how possibly.

MR. NUGENT: Says possibly 7.2.

MR. STEYER: Right, we're required 40 foot front yard as everybody knows the building is existing and we have a 52.8 front yard right now which is existing. It's a change of use.

MR. NUGENT: Can you tell us when the building was built?

MR. STEYER: I'll be able to tell you next time.

MS. BARNHART: 1960 was the purchase date.

MR. STEYER: So it was a while ago.

MR. KANE: That pre-dates.

MS. BARNHART: '60 was the date they purchased the parcel.

MR. NUGENT: If you can prove to us that the building was there before 1967.

MR. BABCOCK: Yeah but Jim, see the thing is that is why it needs to be discussed a little bit depending on the use in that zone could change the criteria of how far the front yard setback is. So if you had a bicycle shop just to use that for an example, that might only require 50 feet which that building met. Now the use of this building requires 60 feet so as they change the uses, the requirements change so I don't know that you want to say if the building was built before zoning.

MR. NUGENT: Then he should go for the variance.

MR. BABCOCK: I believe he should, yes.

MR. TORLEY: It's clearly a factor in our consideration but he's got to go for it.

MR. BABCOCK: You're not going to move the building but I think he should square it up while he's here.

MR. NUGENT: If the use changes, it could change, the new person would have to get a--

MR. BABCOCK: That is correct.

MR. NUGENT: Or not get one.

MR. KANE: Is that what you have for the use in that zone?

MR. BABCOCK: I don't have the tables with me.

MR. STEYER: I believe it is, I don't have it with me either.

MR. NUGENT: C zone?

MR. BABCOCK: Yes.

MR. LANGANKE: Says proposed use is that contingent on the proper variances being obtained?

MR. STEYER: Correct variances, planning board approval.

MR. NUGENT: Could be up to a hundred but for a school.

MR. BABCOCK: Well, that is exactly what I am trying to explain so--

MS. BARNHART: Mark has covered just about everything in this Notice of Denial from the planning board.

MR. TORLEY: You're right, he's better off just getting it.

MR. NUGENT: Only place of worship would be 45.

MR. KANE: With the height are they changing the building?

MR. BABCOCK: No.

MR. KANE: So the height is just because it's a different use?

MR. BABCOCK: That is correct.

MS. BARNHART: You don't need a sign variance?

MR. STEYER: No sign, we're all set on, we're actually allowed quite a bit of signage. The side yard, I really don't think we need also because if you notice the easement to the south of the building, that is a sewer easement and he actually owns to the center line of that easement. We're required a 30 foot setback so I think we have 36 so I think we're okay there.

MR. REIS: What's the use on the bottom level?

MR. STEYER: Lower level is going to be all professional offices. It could actually end up to be medical but our parking requirement is less for medical so we're going for the most stringent use that we're proposing which would be professional offices.

MR. TORLEY: I move we set up Rosenbaum Industries for their public hearing on the requested variances.

MR. REIS: Second it.

ROLL CALL

MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. REIS	AYE
MR. NUGENT	AYE

Bila Family Partnership
158 N. Main Street
Florida, N. Y. 10921

(15)

Frederick J. Kass
Samuel & Audrey Madison
367 Windsor Highway
New Windsor, N. Y. 12553

Walter Kroposki Living Trust
Amelia Kroposki
Quaker Hill Road
Box 731
Monroe, N. Y. 10950

Antonio & Giacinta Dedominicis
377 Windsor Highway
New Windsor, N. Y. 12553

Charles T. & Rose M. Daidone
250-260 Temple Hill Road
New Windsor, N. Y. 12553

Joan A. Shedden
Box 608A
Vails Gate, N. Y. 12584

John J. Aquino & Gregory Mellick
% Gregory Mellick
135 W. Nyack Road
Nanuet, N. Y. 10954

The Vails Gate Fire Company
P. O. Box 101
Vails Gate, N. Y. 12584

Vails Gate Methodist Cemetery
P. O. Box 37
Vails Gate, N. Y. 12584

Sorbello, Bouyea & King
% Robert K. Bouyea
505 North Riverside Road
Highland, N. Y. 12528

Tower Management Financing Partnership LP
680 Kinderkamack Road
River Edge, N. J. 07661

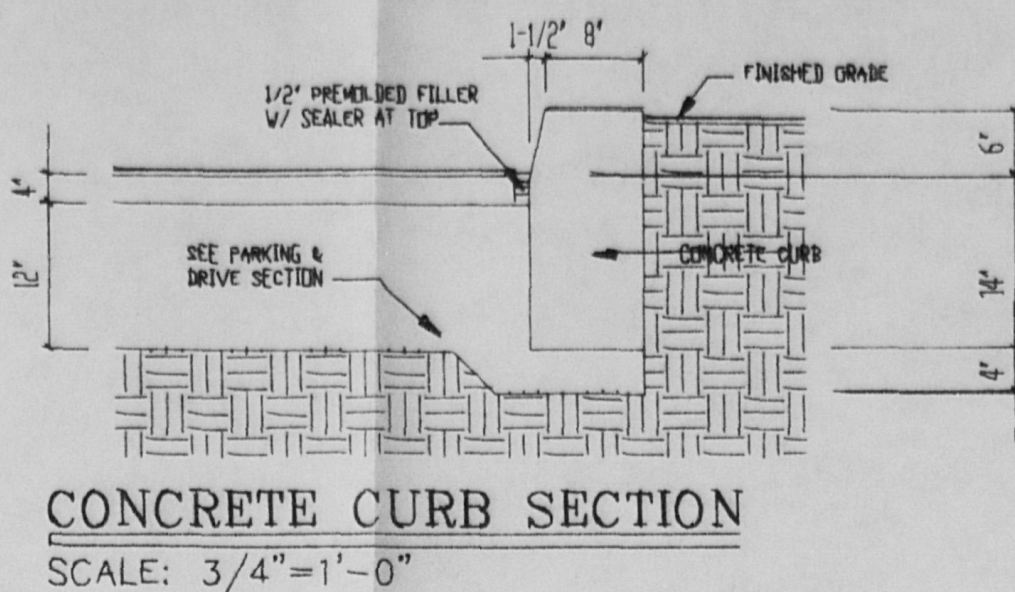
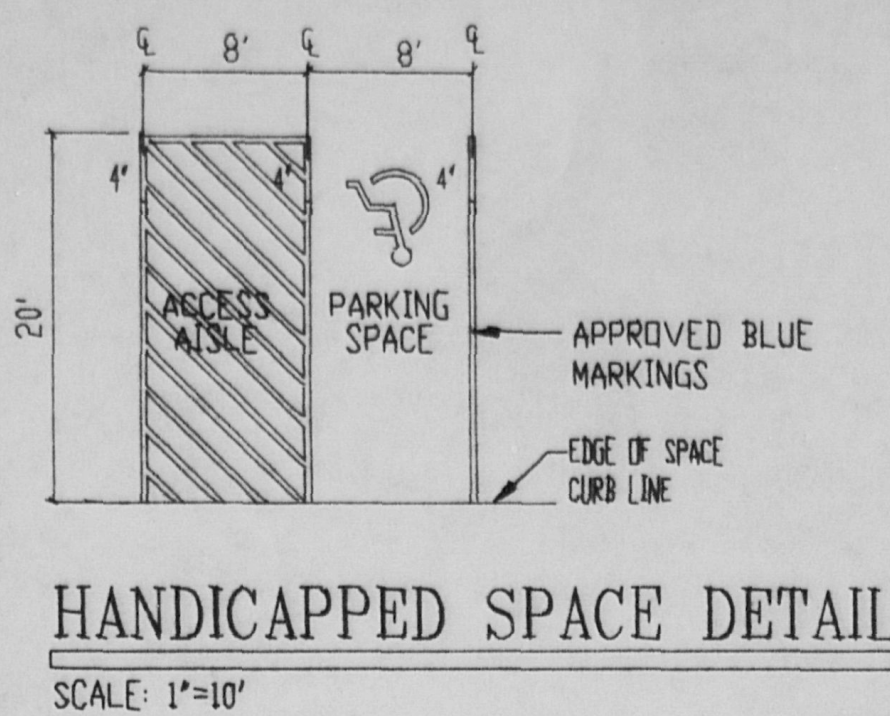
Albany Savings Bank
94 Broadway
Newburgh, N. Y. 12550

William & Viola Rosenberg
176 N. Main Street
Florida, N. Y. 10921

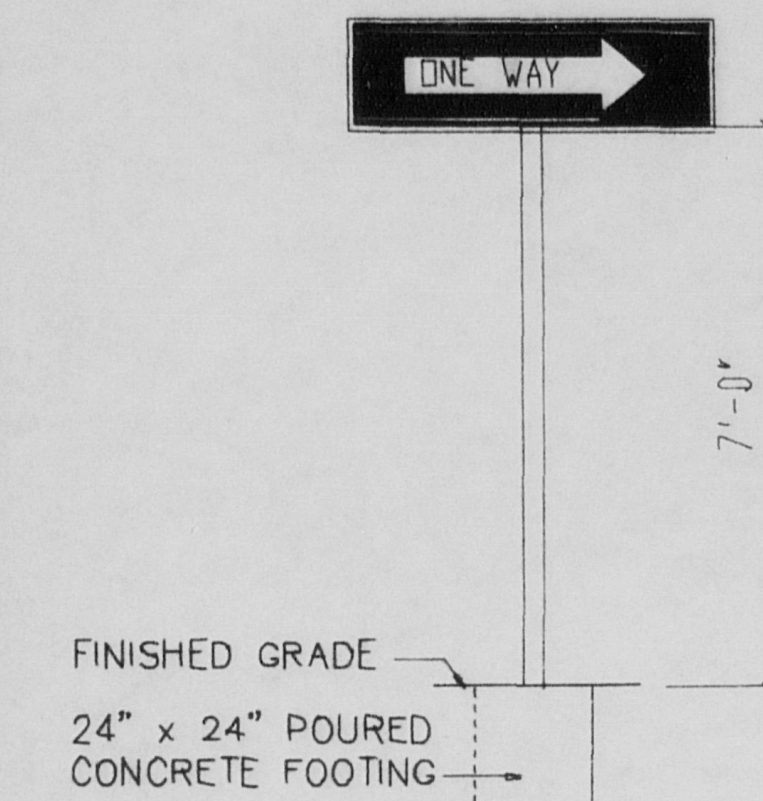
Katherine Kelly

Box 38
Vails Gate, N. Y. 12584

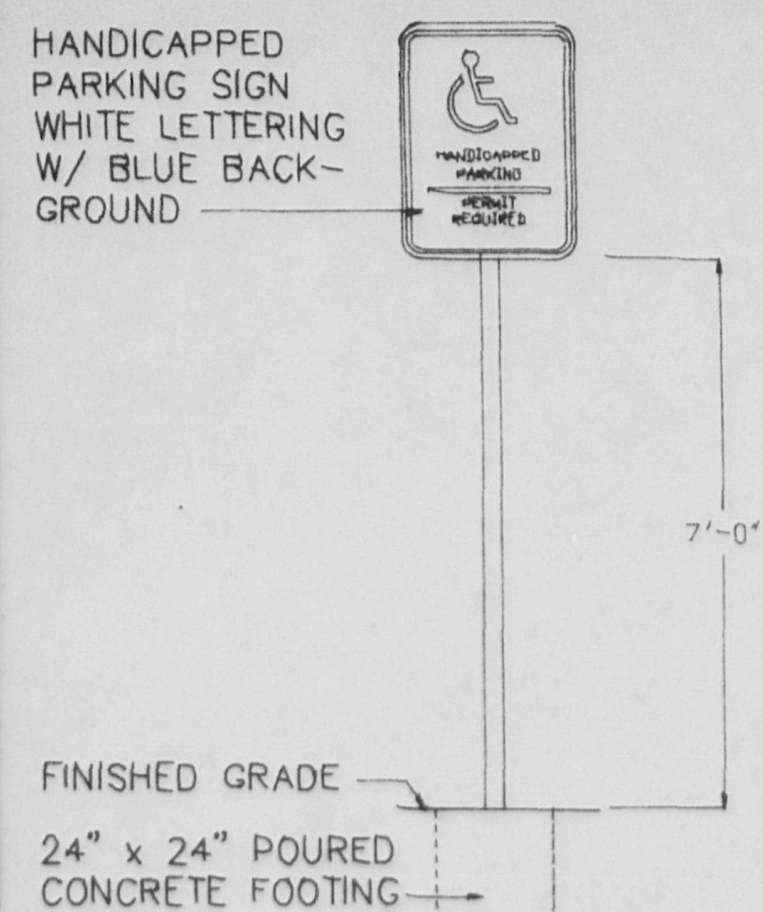
Mr. Bill Slack, Chairman
Board of Directors
Kingswood Gardens
810 Blooming Grove Tpk. - Unit 10
New Windsor, N. Y. 12553



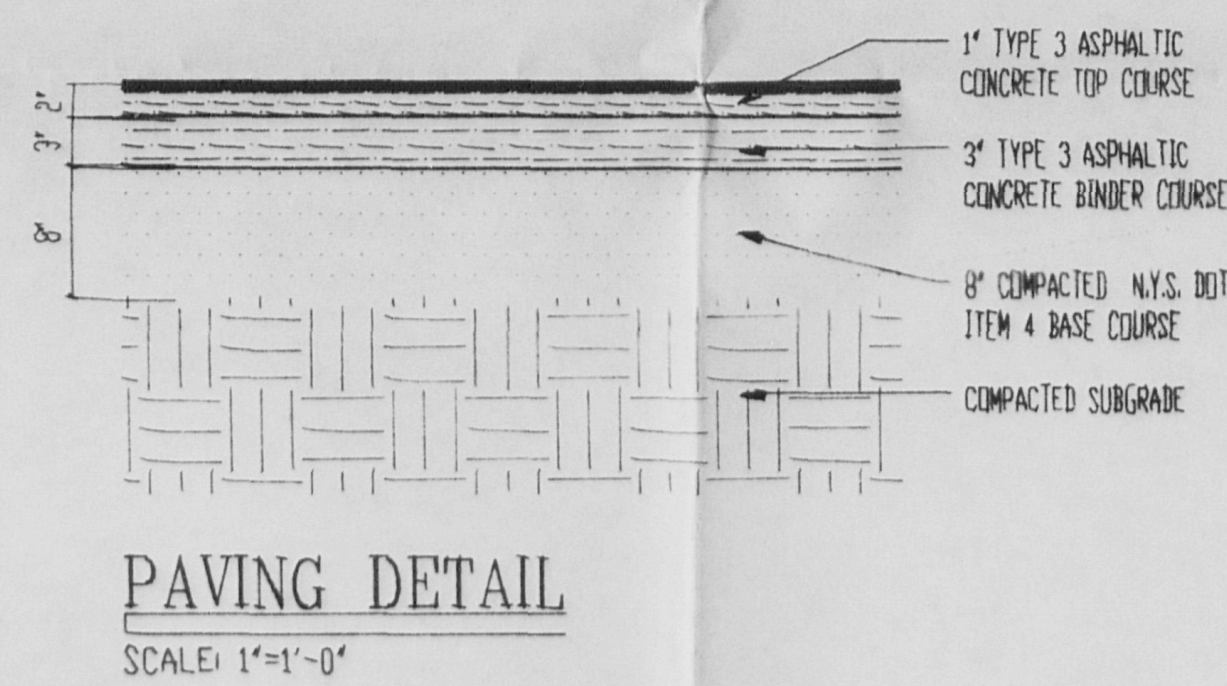
N/F VINCENT SORBELLO
ROBERT BOUYEA
RICHARD D. KING
LIBER 2580 PAGE 255



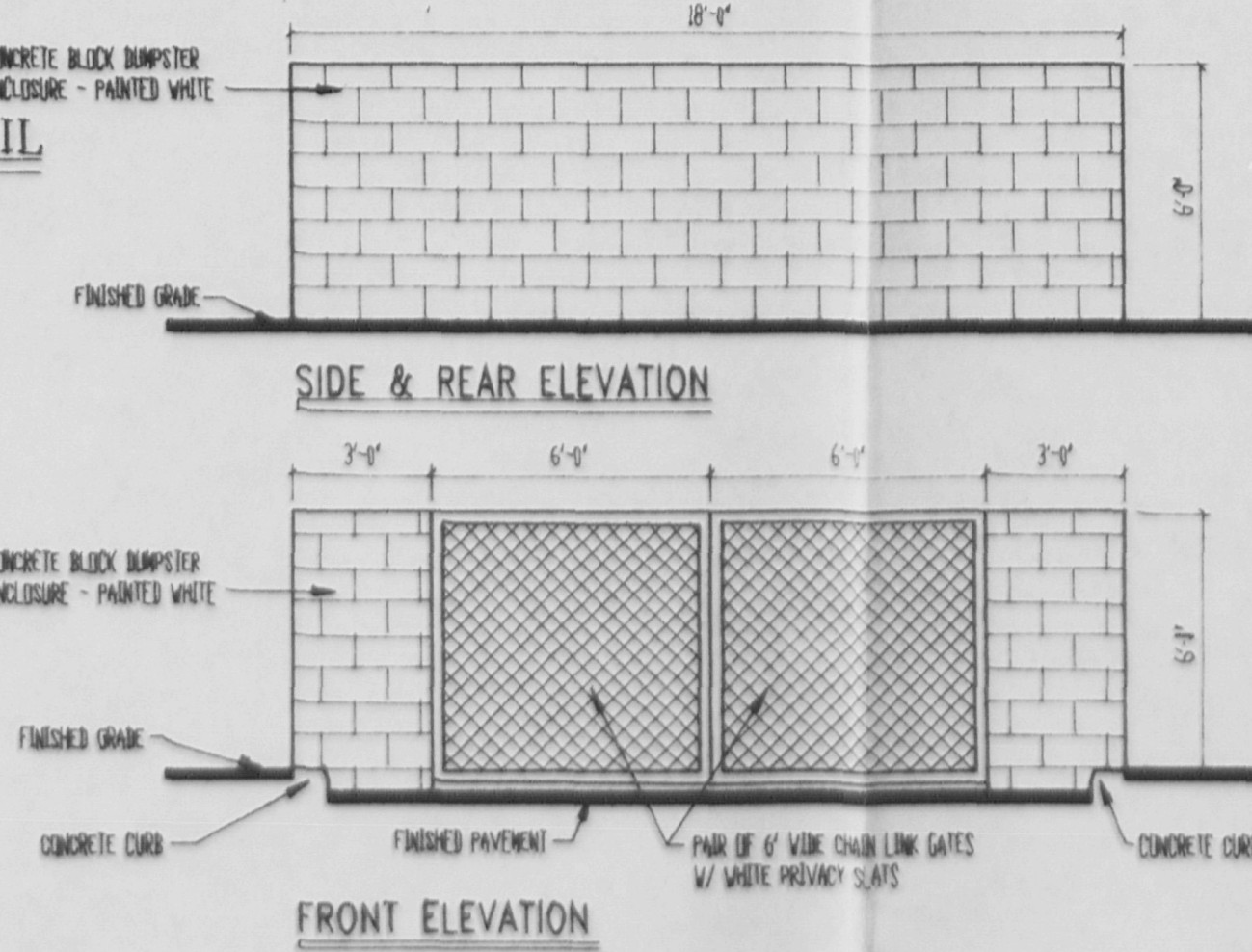
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NO SCALE



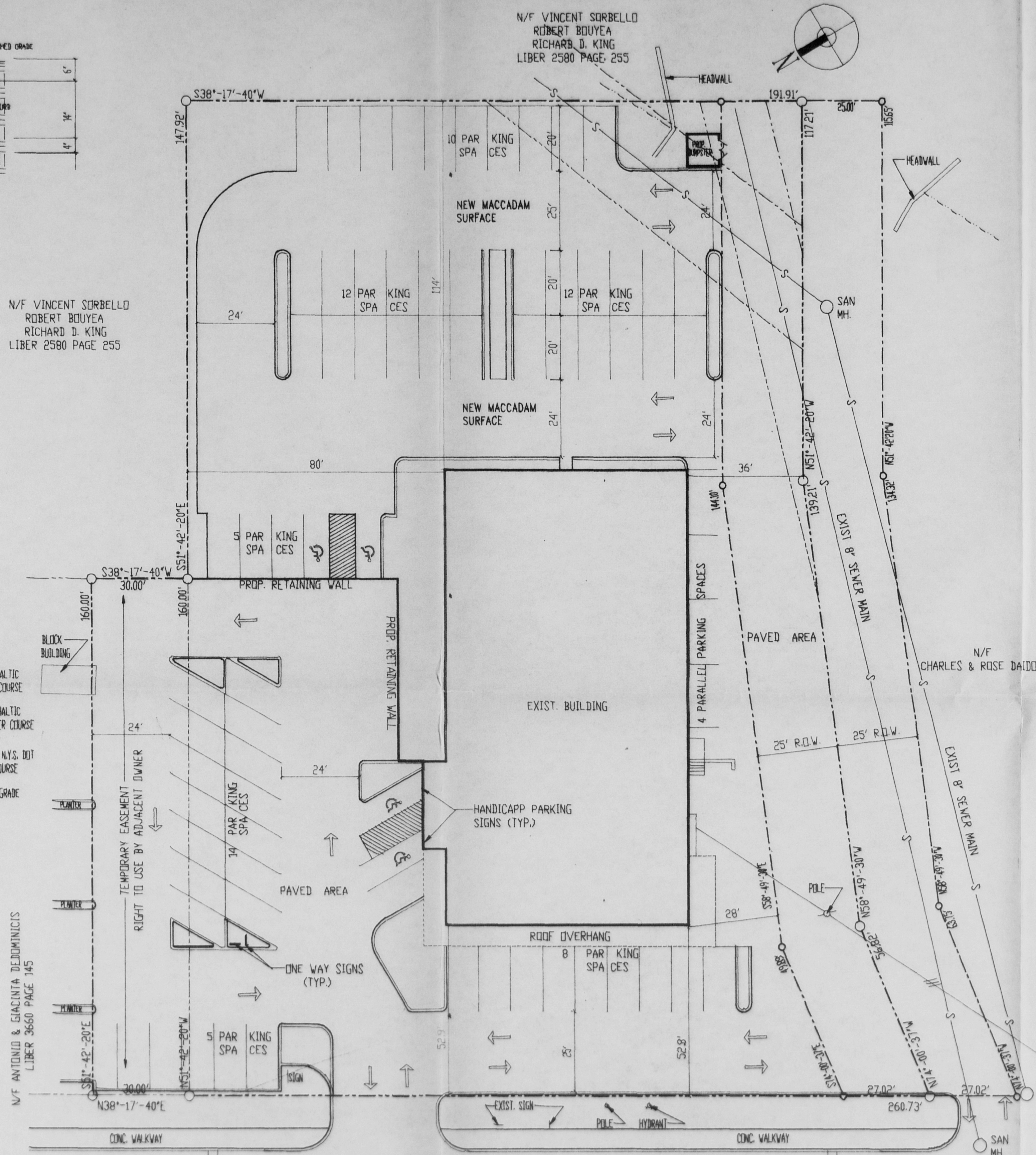
HANDICAP SIGN DETAIL
NO SCALE



PAVING DETAIL
SCALE: 1"=1'-0"

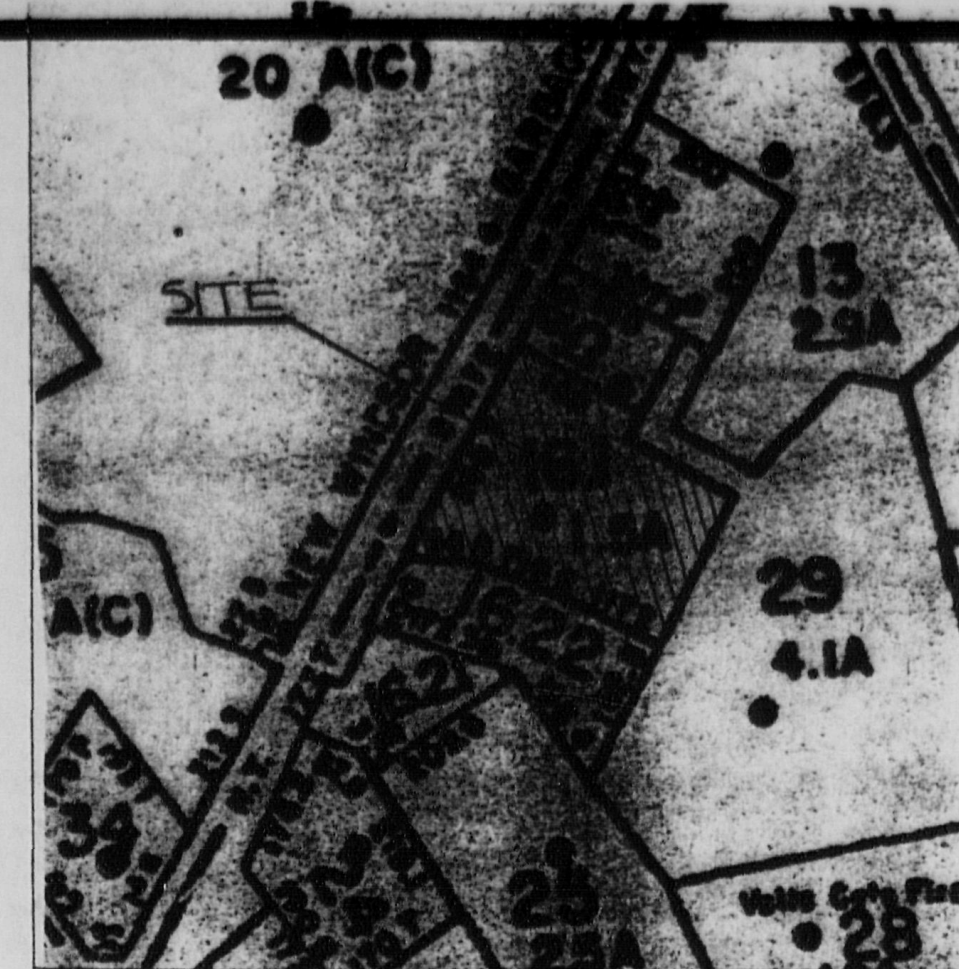


DUMPSTER ENCLOSURE DETAIL
SCALE: 1/4"=1'-0"



NEW YORK STATE ROUTE 32 S.H. 9033
WINDSOR HIGHWAY

SITE PLAN
SCALE: 1" = 20'-0"



ZONING REQUIREMENTS

DISTRICT 'C' DESIGN SHOPPING A-9
SECTION 65, BLOCK 2, LOT 16.1

ITEM	REQUIRED	PROPOSED	ZBA
LOT AREA	40,000 SQ.FT.	40,000 SQ.FT.	
LOT WIDTH	200'	240'±	
FRONT YARD	60'	52.8'	
SIDE YARD	30'	10.2'	
BOTH SIDES	70'	116'	
REAR YARD	30'	114'	
MAX. BLDG. HGT.	35.7'	28' ±	
4' FT X 36'			
FLOOR AREA RATIO	0.5	0.33	

ZONING NOTES:

1. THE ABOVE LISTED NON-CONFORMITIES ARE PRE-EXISTING NON-CONFORMITIES. THIS APPLICATION IS NOT INCREASE-ING ANY EXISTING NON-CONFORMITIES.
2. THE FOLLOWING VARIANCE IS REQUESTED.
PARKING 73 PROPOSED 83 REQUIRED

PARKING REQUIREMENTS

UPPER LEVEL:
MEDICAL DR DENTAL OFFICES - 1 PARKING SPACE FOR EACH EXAMINING ROOM PLUS 4 PARKING SPACES PER DOCTOR.
3 DENTISTS AND 12 EXAMINING ROOMS:
(4 SPACES/DENTISTX3) = 16 SPACES REQUIRED
(12 EXAM ROOMS)X1 = 12 SPACES REQUIRED

LOWER LEVEL:
PROFESSIONAL OFFICES - 1 PARKING SPACE PER 200 SQ.FT OF FLOOR AREA
10,868 SQ.FT. PROF. OFFICES/200 SQ.FT = 54.34 SPACES REQ'D
TOTAL PARKING SPACES REQUIRED = 82.34
TOTAL PARKING SPACES PROVIDED = 73 INCLUDING 4 HCAPP

GENERAL INFORMATION:

1. OWNER: ROSENBAUM INDUSTRIES C/O RICHARD ERNENWEIN 7 BEECH ST. NEWBURGH N.Y. 12553
2. APPLICANT: DR. MOE STERN C/O FIRST AMERICAN TITLE CO. 228 EAST 45th ST. NEW YORK N.Y. 10017
3. SURVEY INFORMATION PROVIDED BY: WASHBURN ASSOCIATES 44-52 ROUTE 9W NEW WINDSOR N.Y. 12553

PLANNING BOARD APPROVAL

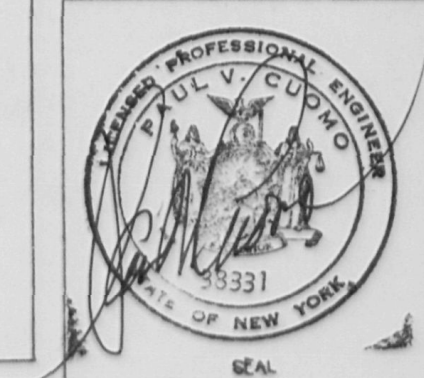
DATE: 8-16-95
DRAWN BY: D.D.
CHECKED BY: P.V.C.
SCALE: AS NOTED
PROJECT NO.: 95226

NOTE: THIS PLAN IS COPYRIGHTED. UNAUTHORIZED ALTERATION TO THIS PLAN IS A VIOLATION OF SECTION 7209(2) OF THE NEW YORK STATE EDUCATION LAW.

DATE	ISSUANCE	BY

DATE: 8-16-95
REVISIONS: 1
BY: D.D.

CUOMO ENGINEERING
STEWART INTERNATIONAL AIRPORT, NEW WINDSOR, N.Y. 12553 (914) 567-0063
PROJECT TITLE: DR. STEVEN P. STERN & DR. ALI ZANGENEH
PROPOSED SITE PLAN, DETAILS, & NOTES



SP-1
SHEET 1 OF 1